

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL ACTION NO. 1:02cv00496-WOB

JAMES R. HEARNS, JR.

PLAINTIFF

VS.

ORDER

JEFF WYLER FAIRFIELD, INC., ET AL

DEFENDANTS

On September 13, 2005 this matter came before the court for oral argument on Defendants' Motion for Summary Judgment (Doc. #21). Plaintiff was personally present and represented by Bryan R. Perkins; and Defendants were represented by Donald Wayne Wright and Elizabeth Mason. Also present was witness, Marvin Butts. Official court reporter Joan Averdick recorded the proceedings.

The court, having heard counsel and being otherwise advised,

IT IS ORDERED as follows:

1. Defendant's Motion for Summary Judgment (Doc. #21) be, and it is, hereby **DENIED** as there are genuine issues of material fact as to the Plaintiff's claims of racial discrimination.

2. The parties agree and Plaintiff concedes to withdraw his claims of disability discrimination under the ADA, § 1983 claims, and his claims for Ohio workers' compensation retaliation.

3. This matter is set for a one week jury trial, beginning on **March 20, 2006 at 10:00 a.m.**, to be held in the U.S. Courthouse for the Southern District of Ohio in Cincinnati, Ohio (courtroom to be assigned at a later date).

4. The final pretrial conference is hereby set for **January 27, 2006 at 2:00 p.m.** in Room 505, U.S. Courthouse, 35 West Fifth

Street in Covington, KY. The parties are directed to comply with the final pretrial conference order entered concurrently herewith.

This 14th day of September, 2005.



Signed By:

William O. Bertelsman *WOB*

United States District Judge

TIC 30 min.